

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Paramedical Recruitment 2002 – Filling up of the posts Multi Purpose Health Assistant (Male) on contract basis – Orders of the Hon'ble Supreme Court of India, dated 9.8.2011 in Civil Appeal No.4267/2006 and batch cases – Instructions – Issued.

HEALTH MEDICAL AND FAMILY WELFARE (J2) DEPARTMENT

G.O.Rt.No.273

Dated 16.02.2012

Read the following :-

1. G.O.Ms.No.217, HM&FW (J2) Dept., dated 26.02.2001
2. G.O.Rt.No.459, HM&FW (J2) Dept., dated 22.05.2002
3. G.O.Rt.No.159, HM&FW (J2) Dept., dated 16.05.2003
4. From the Hon'ble High Court, orders dated 11.9.2003 in W.P.No.15107/2002 and batch.
5. From the Hon'ble Supreme Court of India, orders dated 7.8.2006 in SLP (c) No.1925-44/2004
6. G.O.Rt.No.1234, HM&FW (J2) Dept., dated 15.09.2006
7. Govt.Memo.No.10397/J2/2004-, dated 29.09.2006.
8. From the Hon'ble Supreme Court of India, orders dated 9.8.2011 in Civil Appeal No.4267/2006 and batch cases.
9. Representation Sri G.Rajendra Prasad and other contract MPHA (M) dated 10.11.2011.
10. From the DPH&FW, Lr.No.19247/E4.IA/2000, dated 4.1.2012.

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ORDER :

1. In the G.O. 2nd and 3rd read above, permission have been accorded for filling up of vacancies of Multi Purpose Health Assistant (Male), under the control of Director of Health / Director of Medical Education / Commissioner of APVVP and Commissioner, Family Welfare in the State on contract basis initially for a period of one year on consolidated payment at 100% gross salary attached to the posts by selection of candidates following the procedure prescribed. Accordingly, in pursuance of the notification issued on 20.7.2002 a written examination was conducted on 11.8.2002 for recruitment of the said Paramedical Staff.

2. On receipt of complaints that the certificates issued by the Private Institutions unrecognized, a number of candidates have appeared for examination to the post of Multi Purpose Health Assistant (Male). Government have ordered an enquiry into the whole matter and postpone the selection process pending enquiry into the matter. The enquiry committee constituted, submitted report according to which the certificate issued by one of the private institutions were not authentic and another private institution awarded Diploma to the students who were trained prior to the recognition and also to the students who started their training prior to the recognition of the said institute by the Government. In some cases, certificates claimed to have been issued to the students who had undergone training from July 2001 to April, 2002 for a period of 9 ½ months as against the prescribed period of one year and such certificates cannot be considered as valid. The committee has recommended to cancel the written test conducted on 11.8.2002 in respect of recruitment to the post of Multi Purpose Health Assistant (Male).

3. Government have carefully examined of the matter, have accepted the recommendation of the Enquiry Committee. Accordingly Government have decided to cancel to the orders issued in G.O.Rt.No.459, HM&FW Department, dated 22.5.2002, G.O.Rt.No.524, HM&FW Department, dated 15.06.2002, and G.O.Rt.No.561, HM&FW Department, dated 22.06.2002, to the extent of selection process of Multi Purpose Health Assistant (M) only. Accordingly, the written test conducted on 11.8.2002 in pursuance of the notification issued by the Director General of Medical and Health Services and Commissioner, APVVP, in respect of the recruitment to the post of Multi Purpose Health Assistant (M) was cancelled vide orders issued in G.O.Ms.No.484, HM&FW (J2) Deptt., dated 24.12.2002.

4. Aggrieved by the above cancellation certain individuals have approached Hon'ble High Court by filing WP.NO. 422/2003 challenging the cancellation of written test. The Honble High Court has in its interim order dated 28.4.2003 has directed to

- a) to appoint candidates who have passed their Diploma in Public Health and Sanitation from **Government institutions** provided such candidates have passed the Diplomas after having attained the qualification of **Intermediate**
- b) After the posts are filled up by the candidates who have passed through Government agencies and have Intermediate qualification, the remaining vacant posts if any, shall be filled up by the candidates who have passed the Diploma from other private Institutions and have also Intermediate qualification.

5. Complying the above orders of Hon,ble High Court, MPHA (M) posts were filled with the candidates with Intermediate qualification without considering the meritorious SSC candidates available in the selected list from the Notification issued and examination conducted in the year, 2002.

6. In the reference 4th read above, the Hon'ble High Court in its judgement dated 11.9.2003 in W.P.No. 15107/2002 and batch cases directed as follows:

- "a) W.P.No.422 of 2003 and other similar Writ Petition challenging G.O.Ms.No.484 HM&FW (J2) Department dated 24.12.2002 directly before the High Court are maintainable.
- b) Prescribing SSC and Diploma certificate from recognized institutions by the Government is competent and legal and it did not over ride the statutory rules in G.O.Ms.No.273 HM&FW (H1) Department dated 24.04.1989 and accordingly the orders of Andhra Pradesh Administrative Tribunal in O.A.No.6856 of 2002 stands modified warranting no amendments to statutory rules noted supra.
- c) G.O.Ms.No.484 dated 24.12.2002 is quashed and W.P.No.422/2003 and similar Writ Petitions are allowed
- d) All the interim orders in the Batch of Writ petitions ceased to have any effect. Consequently, we direct the State Government to prepare the select list of candidates in accordance with Rules, who possessed SSC and Diploma certificate either from Government Institutions or the four private institutions referred to supra including College of Medical Technology, Ongole, as the cancellation of recognition of the said College was effected on 5.7.2002 which is the subject matter in separate Writ Petitions. However, if any selected candidate from this institutions is holding certificate issued on 5.7.2002 or thereafter it shall not be given effect to. The candidates so selected shall be issued with the appointment orders within period of four weeks from today duly terminating the services of the candidates, who were appointed on the basis of interim orders and not figuring in the select list prepared under this Order. "

7. Aggrieved by the final orders dated 11.9.2003, certain candidates who were appointed as Multi Purpose Health Assistant (Male) by virtue of interim directions of the Hon'ble High Court dated 28.4.2003 filed SLP.(c) No.23115/2003 and on 13.12.2003, the Supreme Court had made the following order:

"Until further orders, the petitioners shall be allowed to continue in service"

8. Government has also filed SLP before the Supreme Court of India and its orders dated 6.2.2004 in SLP (C) No.1925-44/2004 wherein the Hon,ble Supreme Court has directed the Government of A.P. not to make any fresh appointment in pursuance of the High Court Judgement, however, the appointments which were made shall not be disturbed. In other SLPs, the Supreme Court directed to continue the petitioners in service till further orders.

9. On a petition filed by the State Government, the Hon'ble Supreme Court of India in their interim order dated 7.8.2006 in SLP (C) No.1925-44/2004 while vacating the stay granted earlier in the matter, permitted the State Government to fill up the vacancies of MPHA (M) from the selected candidates subject to outcome of the Special Leave Petitions.

10. In the reference 6th read above, the Government permitted the DPH&FW to go ahead with the appointment of MPHA (M) subject to the outcome of the final judgment of the Supreme Court of India in terms of Memo.No.10397/J2/2004, dt.29.9.2006.

11. In the reference 8th read above, the Hon'ble Supreme Court has dismissed the Civil Appeals filed by the private parties and by the State of Andhra Pradesh. Hence, the judgement of Hon'ble High Court in W.P.No.15107/2002 and batch cases dated 11.9.2003 has become operative which is as under -

“to prepare selected list of candidates of the notification 2002 in accordance to the rules who possessed SSC and Diploma certificate either from Government Institutions or the four Private Institutions referred to supra including College of Medical Technology, Ongole as the cancellation of recognition of the said College was effected on 5.7.2002 which is the subject matter in separate writ petitions. However, if any selected candidate from this institution is holding certificate issued on 5.7.2002 or thereafter it shall not be given effect to. The candidates so selected shall be issued with the appointment Orders within a period of four weeks from today duly terminating the services of the candidates, who were appointed on the basis on Interim orders and not figuring in the select list prepared under this order on contract appointment”.

12. In the reference 9th read above, some of the Multi Purpose Health Assistants (Male) appointed on contract basis in the year, 2003 and 2006 in pursuance of DSC 2002 have requested to regularize their services as they are likely to be displaced by the persons to be selected afresh in the revised selection list consequent on implementation of High Court Judgement in W.P.No.15107/2002 and batch cases, dated 11.9.2003. The Government have considered that there is no provision to protect them from replacement of their services from contract appointment to the post of MPHA (M), as this is on account of implementation of the Hon'ble High Court Judgement in W.P.No.15107/2002 and batch cases, dated 11.9.2003. Hence, the representation is rejected.

13. In the reference 10th read above, the Director of Public Health and Family Welfare, has reported as follows:

- a) Approximately Total 2400 candidates were appointed in 2003 as per interim directions of Hon'ble High Court of A.P. and approximately 1780 candidates were appointed in 2006 as per final orders of Hon'ble High Court of A.P.
- b) Recasting exercise has been done only for those vacancies which are filed during 2003 only, since these vacancies were filed on interim orders of High Court.
- c) 504 candidates shall be inducted to implement the Supreme Court Judgment and same number of candidates will be effected.
- d) For implementation of Hon'ble Supreme Court orders the candidates who were effected shall be terminated, otherwise it leads to anomaly that candidates with lower merit will be in contract service while several other candidate who are higher in merit to effected candidates are not in contract service.
- e) The newly inducted candidates shall be appointed from prospective date and the period of contract shall be of one year as per G.O.Rt.No.459, HM&FW Department, dated 22.05.2002.

14. The Director of Public Health and Family Welfare has also reported that since the amendment issued for recognition the private institutions were deleted vide in G.O.Ms.No.23, HM&FW Department, dated 23.01.2008 in G.O.Ms.No.277, HM&FW Department, dated 05.07.2002 in G.O.Ms.No.67, HM&FW dated 5.1.2008 in G.O.Ms.No.187 HM&FW Department dated 15.06.2007 whether to consider the candidates with certificates from the private institutions for the contract appointment. Merit list has to be again re-casted if in CBCID enquiry any bogus certificates are detected.

15. The Government after careful consideration hereby accord permission to the Director of Public Health and Family Welfare to take action as per the final judgement of the Hon'ble High Court dated 11.9.2003 in W.P.No. 15107/2002 and batch cases and to prepare a fresh selected list of candidates of the notification 2002 in accordance to the rules who possessed SSC and Diploma certificate either from Government Institutions or the four Private Institutions including College of Medical Technology, Ongole as the cancellation of recognition of the said College was effected on 5.7.2002 which is the subject matter in separate writ petitions. If any selected candidate from this institution is holding certificate issued on 5.7.2002 or thereafter it shall not be given effect to. The candidates so selected shall be issued with the Orders duly terminating the services of the candidates, who were appointed on the basis on interim orders and not figuring in the select list prepared under this order, as the Hon'ble Supreme Court dismissed the SLPs, till these contract appointments are replaced by permanent recruitment likely to be taken up later.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**K.R.KISHORE
PRINCIPAL SECRETARY TO GOVERNMENT**

To

The Director of Public Health and Family Welfare, Hyderabad
All the District Collector in the State
All the Regional Director of Medical and Health Services in the State
All the District Medical and Health Officer in the State
The Director of Treasuries and Accounts, A.P., Hyderabad
The Pay and Accounts Officer, Hyderabad

Copy to :-

The Accountant General (A&E), A.P., Hyderabad
The Finance (SMPC) Department
The HM&FW (G) Department
The OSD to M (H & FW)
The P.S. to M (ME)
The P.S. to Spl.C.S.
The P.S.to Prl.Secy.,
SF/SCs.,

//forwarded :: by order //

SECTION OFFICER